

APPEAL NO. 033039  
FILED DECEMBER 31, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 27, 2003. The hearing officer determined that the appellant's (claimant) \_\_\_\_\_, compensable injury includes an injury to his thoracic spine, and that he is not entitled to supplemental income benefits (SIBs) for the 15th or 16th quarters. The claimant appeals the SIBs determinations. The respondent (carrier) urges affirmance of the hearing officer's decision. The extent-of-injury determination has not been appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed.

Section 408.142 provides that an employee continues to be entitled to SIBs after the first compensable quarter if the employee: (1) has not returned to work or has earned less than 80% of the employee's average weekly wage as a direct result of the impairment; and (2) has in good faith sought employment commensurate with his or her ability to work. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(5) (Rule 130.102(d)(5)), relied on by the claimant in this case for SIBs entitlement, provides that the good faith requirement may be satisfied if the claimant "has provided sufficient documentation as described in subsection (e)." Rule 130.102(e) states that "an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts." The rule then lists information to be considered in determining whether the injured employee has made a good faith effort, including, among other things, the number of jobs applied for, applications which document the job search, the amount of time spent in attempting to find employment, and any job search plan.

Whether the claimant satisfied the good faith requirement for SIBs entitlement was a factual question for the hearing officer to resolve. The factors emphasized by the claimant in his appeal are the same as those argued at the hearing: that the scope of his searches was limited by his educational limitations and physical restrictions. Contrary to the claimant's assertion on appeal, there is no indication that the hearing officer "overlooked" the evidence supporting the claimant's position. The hearing officer noted that the claimant testified that he made minimal searches because he "thought one per week was all he had to qualify for SIBs." The hearing officer concluded that the claimant did not satisfy the good faith requirement for SIBs entitlement for the 15th or 16th quarters. Nothing in our review of the record indicates that the hearing officer's SIBs determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Margaret L. Turner  
Appeals Judge